THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Trade Tax Revision No. 04 of 2005

M/s Ravindra Rice Mill Mella Ghat Road,
Khatima, District Udham Singh Nagar,
Through its Partner Mahaveer Chandra Bansal.

---Revisionist.

Versus

Commissioner of Trade Tax, Uttaranchal at Dehradun.

---Respondent

Sri S.K. Posti, Advocate, learned counsel for the revisionist.
Sri P. Maulekhi, Adl.Adv. General, learned counsel for the respondent.

Date: March 23, 2005
PC:
(Hon'ble B.S. Verma, J.)

Heard learned counsel for the revisionist Sri S.K.Posti as well as Sri P.Maulekhi, Additional Advocate General, appearing on behalf of the opposite party.

The revisionist has preferred the present revision against the order dated 16-02-2005, passed by the Trade Tax Tribunal, whereby the appeal of the revisionist was dismissed for non-prosecution. It was also mentioned in the order that copy of order dated 13-10-2004 was sent to the revisionist-appellant Under Postal Certificate.

The main grievance of the revisionist is that the appeal filed by him was dismissed for non-prosecution, because the revisionist was not aware about the date fixed in the appeal. It was contended that the order dated 16-2-2005 passed by the Trade Tax Tribunal is self-contradictory inasmuch as there was no occasion for the learned Tribunal to have sent the order dated 13.10.2004 to the appellant under Postal Certificate when the counsel for the appellant was present.

In the course of arguments, it was submitted by the learned counsel for the revisionist that the ends of justice will be served if a direction to the learned Tribunal is given to hear and decide the appeal preferred by the revisionist on merits.

Considering the facts and the circumstances of the case as well as the submissions of learned counsel for both the parties, I am of the view that that the interest of justice will be served if the appeal preferred by the revisionist is decided on merits by the learned Tribunal.

Accordingly, the impugned order dated 16-02-2005 is set aside and the learned Trade Tax Tribunal is directed to decide the appeal preferred by the revisionist afresh on merit after giving opportunity of hearing to both the parties.

The revision petition is accordingly allowed.

(B.S. Verma, J.)

RCP